Nature of Law, Public and Political Sentiments in Nigeria: The Role of Civic Education

Macaulay J. D. Akpan Esq.
Law Unit, Department of Accountancy
Akwa Ibom State Polytechnic, Ikot Osuru and
Facilitator, NOUN, Uyo Study Centre
E-mail: mackinsav@yahoo.com

Abstract
This paper considered the wrong public perception about law in the present democratic dispensation in Nigeria. Such perception is traced to delay in the administration of justice in Nigeria. However, this work appraised the concept and nature of law with information gathered from primary and secondary sources. This work finds that there is largely an apparent dearth of understanding by the general public of the intrinsic nature of Nigerian legal and justice systems. This explains why the judiciary is constantly condemned and criticised by the public. Therefore, this paper recommends that there is need to encourage and promote civic education from primary to tertiary education in Nigeria. The National Orientation Agency and its state’s counterparts should be reinvigorated to work more tenaciously. Also, legislative reforms should be carried out in the law books to decompose conditions that could serve as incentives for corrupt practices in public offices.

Keywords: Law, Public, Civic Education and Legal System.

Introduction
Under the present President Muhammadu Buhari’s All Progressive Congress (APC) led Administration, there has been unprecedented plurality of statutory and judicial interpretations as well as in methods of law enforcement (Adebowale, 2016). Indeed, the causative factor to all of these different and differing opinions on the interpretations and enforcement methods of statutes by courts and in law enforcement could generally be traced to the fluid and nebulous nature of the meaning of law. This paper therefore will examine the phenomenon called law within the context of the meaning, types and importance of law in Nigeria. The paper will also consider the impacts of public and political sentiments on law in Nigeria. The paper will make recommendations for reforms.

Definition of Law
It is not within the scope of this paper to examine past and present attempts at defining law phenomenon. In any case, this paper has chosen just two of such definitions to be examined, briefly. This is so because they fit into the theme and purpose of this write-up and because of space constraint. Nonetheless, the proposed definitions of law may not be adequate but they are sufficient. It is trite to note that there is no universal meaning of the phenomenon called
law. This is so because the concept of law commences and operates at different times and space in all human societies. Again, the various definitions donated to law arise from differentiated human perceptions, perspectives, philosophies, economies, cultures, politics and religions. Above all, law coincides with human existence in relations to their well being, welfare and environment. This makes law such a complex concept unlike other material things like money with which its performance could be predicted with exactitude. According to Black’s Law Dictionary (2009), Law is defined as the aggregate of legislation, judicial precedents and accepted legal principles. From this definition, three principles or concepts are apt for consideration. The first is the word “legislation”, the second is the term “judicial precedents” and the third is “legal principles”. The word legislation is defined in the same Black’s Law Dictionary as the process of making or enacting a positive law in written form, according to some type of formal procedure by a branch of government constituted to perform this process. From the definition, legislation can be referred to as positive law made by a law making body established for the purpose of making law by the government. Sometimes, the word statute is used interchangeably with legislation but the two words are not the same. Statute just like the term “Act” refers to law made by the legislative body. However, legislation is a collection of Statutes or Acts of Parliament in a country (Business Dictionary). The word legislation in its noun form is preferably used as a collection of a set of law in a country. However, the same word when used in making a comparison between the laws of two or more countries is used in a plural form as “legislations”.

Legislation, with its peculiarities, has advantages and disadvantages in a legal system of a given society and/or legal system. The advantages of legislation over other types of law such as case law, customary law, Islamic law and natural law, among others, include the following:
(a) It is generally made by representatives of the people in an established institution;
(b) It is written and can be easily referred to;
(c) It usually prescribes and describes actions, rights and duties of individual and a group of individuals.

However, the disadvantages of legislation include:
(a) Delay in the process of its passage and amendments to respond to critical matters of urgent public importance;
(b) Huge institutional costs and processes; and
(c) It is subject to vices such as manipulation, discrimination, sectionalism and marginalisation on the basis of race, class, religion, culture, sex and age.

In respect of judicial precedents, it is an established legal principle that decisions of higher courts in the hierarchy of courts (in descending order), should be followed by other courts below in subsequent matters with similar facts. In Adetosun Olaydeju (Nig.) Ltd. Vs. Nigerian Breweries Plc.,¹ the Supreme Court of Nigeria held that the concept of judicial precedent is built on the principle of “stare decisis”, which means to abide by or adhere to decided cases as policy of courts to stand by precedent based on certain state of facts which are substantially the same. The advantages and disadvantages of the concept of judicial precedent are worthy of mentioning only here because of space. Nevertheless, they are

worthy of some examination subsequently only as raw materials for this paper. Some advantages of judicial precedent include the following:

(i) Consistency of decisions of courts;
(ii) Predictability of decisions of courts; and
(iii) Ease of time in adjudication.

Also, some of the disadvantages of the concept include:

(a) Dearth of development of law;
(b) Judges acting sheepishly; and
(c) Institutionalization of possible previous biases in the decided case(s).

There are basically two types of precedents in law to wit: binding and persuasive precedents. The former demands that all previous decided cases of higher courts should be followed by other courts below in the hierarchy of courts accordingly and of course, in subsequent cases with similar facts or with such facts substantially the same with the decided case(s). The latter deals with courts of coordinate jurisdiction, for example, Federal and State High Courts. In law, decisions of a Federal High Court is said to be persuasive and not binding on a State High Court in a subsequent case with facts substantially the same. The basic reasons for this are that the two courts are theoretically equal to a reasonable extent. Also, either of them is not superior to the other to warrant its decisions being foisted on the other. While courts are enjoined to follow decided cases, accordingly, they are not bound to follow decided cases where the facts are not substantially the same with the case at hand. In worst case scenario, the court that is urged to adopt a decided case may adopt the principle of distinguishing where it is convinced that the facts of the previous case(s) are not substantially the same with the present case before it. Equally, where decided cases are decisions of courts of equal jurisdiction and/or conflicting consequences or decisions, then the court below is expected to follow the latest of the two conflicting decisions provided it has not been set aside on appeal by another higher court. Moreover, a court may reverse or over-rule itself due to certain compelling changes in society or lack of care in its earlier decided case. However, courts rarely adopt this approach. This is so because of the need to avoid unsettling the rights or legal effects of previous decisions between the parties and society generally. In any case, it is noted that a revered or over-ruled decision of court does not affect the existing legal rights or effects on the parties and society in retrospect.

Be that as it may, law finds its true essence and effect when enforced in adjudication, interpretation and judgment. In this wise, legal principles as universally accepted are deployed or invoked in order to arrive at a decision in all disputes and agreements between parties based on basic rules or doctrines relating to law. These legal principles include the following:

1. Polluter pays principle;
2. Precautionary principle;
3. Mens rea;
4. Actus reus;
5. Vitiating factors;
6. Presumption of innocence;
7. Judicial precedent;

---

8. Ratio decidendi;
9. Domicile; and

The above basic legal rules and doctrines are of universal application. They are legal constructs of positive law school, which are meant to be called in aid to resolve conflicts for good government and conducive business environment. The rationale behind such accepted legal principles include the fact that parties to matters and/or agreements are subjected to these time tested principles in the assessment and determination of their civil rights and obligations as well as the appropriate liabilities payable. Unlike under the norms of natural law, which are fixed and/or static, positive law legal principles are relatively mutable from time to time due to evolving and dynamic social, economic, cultural and political orders in societies. Notwithstanding such mutability of legal principles, the existing legal rights and effects between persons and authorities remain intact.\(^3\) However, in statutory laws other than in case laws, a change in such laws may still have ex post facto effect depending on a country’s constitutional jurisprudence.

From the above brief analysis of the definition of law, it is observed that the definition places emphasis on the core values of positive law school. In modern legal jurisprudence, however, positive law which is man-made laws (through human institutions and approved by the sovereign authority) is more acceptable and entrenched across the globe. However, at this juncture, there is a need to consider the second definition of the word law in order to establish a basis for comparison. According to Roscoe Pound, in a legal write-up entitled “More About Nature of Law”, law is defined in two distinct ways, namely: as a rule laid down by the law making organ of a politically organised society deriving its force from the authority of the sovereign and as a rule of right and justice deriving its authority from its intrinsic reasonableness or conformity to ideals of right and merely recognised, not made by the sovereign. This definition is a-two-prone definition and in it exists an amalgam of the two leading schools of thought, that is, the positive and natural schools of law. The positive school of law or positive law and its attributes or characteristics have already been examined and analysed herein. To this end, the natural law school will now be examined and analysed briefly. The positive law practically fulfills one of the four pillars of rule of law that requires that every action be it right or obligation or both concerning the relationship between government and the citizens and between the citizens should be in the form of a written law, so that citizens could be treated equally based on established law and penalties (CFRN, 2004). However, the natural law aspect of Roscoe Pound’s definition is not a product of a written law but that of human reason in terms of what is right and just, which are not made but merely recognised by the sovereign as good or bad or nature-given rights and justice.

Natural law is largely prone to sentiments and susceptible to manipulations and the idiosyncrasies of a judge or other human institutions, with attendant recipe for anarchy. Natural law is believed to be derivable from nature. By the story of creation, every human being should have and enjoy some rights inalienable in form and substance. Over time, some of these philosophised rights have received universal recognition and have been codified as international human rights. Countries of the world have made efforts to domesticate such

\(^3\) Lakanmi and Ors Vs. The AG Western State (1971) I.U.I.L.R. 201.
rights in their national Constitutions. Nevertheless, natural law goes beyond the internationally accepted and documented ones. The natural law phenomenon has progressively made incursive or created permeative effects on the judiciary whereby in some jurisdictions, judges are permitted to allow their decisions to be swayed by natural law on issues of public important, which they probably have felt that the positive law has failed to address satisfactorily or urgently. The justification for this position is that judges are also members of the society. They perceive the opinions of the public and the preponderance of such views, might sway them to adopt such public opinion through judicial activism. In this case, natural law though based on human reason could shape positive law and vice versa. Most times also, positive law takes cognisance of natural law during the process of law making and amendment during public hearing exercises usually conducted by committees of a legislature. In the judiciary, the interpretation of laws is particularly watertight in positive law countries. Such interpretations do not admit of addition or subtraction and hence courts are not expected to act outside the existing law, except where the positive law has no answer to the legal situation at hand then the court may make recourse to the natural law to fill a gap (Orakhelashvili, 2017).

In Nigeria, that operates positive law, interpretation and enforcement of laws have their own established templates that must be complied with. They are the rules of statutory interpretation, Interpretation Act, Sheriffs and Civil Process Act and Foreign Judgments (Reciprocal Enforcement) Act. These instruments of rules and procedures do not allow courts to “bend backward or sympathise with parties in a case in the interpretation of a statute only because the language of the law looks harsh or might work hardship on either of the parties to a suit.” All of this is meant to create a seamless legal climate of consistency and predictability of decisions of courts, as associated with the characteristic of positive law school. This process does not admit of judge’s sentiments as doing so will have effects and influence on the judiciary and its independence. However, there is the argument that positive law is made by imperfect man hence, it is full of prejudices. Nevertheless, positive law allows for amendments to take care of socio-economic and political changes in societies. This means positive law is as dynamic as the society itself. Unlike natural law, positive law justifies the essence of creation by God, when He admonishes that man should subdue and use the earth and its resources under stewardship, which entails god governance based on rule of law. Indeed, the Bible in another exhortation says, “Let everyone be subject to the governing authorities for there is no authority except that which God has established” (Holy Bible). By necessary implications, man is a small god with inherent Godly attributes and thus for man to rule over his fellow human beings, he needs more than abstract laws such as natural law to plan, direct and control the personal and interpersonal conduct of the people within his immediate jurisdiction. It is, therefore, compelling for a set of laws, rules and regulations to be made in a regular period with inherent features of acceptable standards of rights and obligations for individual or group of individuals, so as to serve as a predictable legal decorum, for the government and the governed.

3. Public Sentiments

---

For a better understanding and full appreciation of this sub-theme, the definition of the word “public” and “sentiments” is apt. This definition is to be carried out disjunctively and conjunctively. The word public when used as noun means “the people constituting a community, state or nation.” The same term may mean a particular group of people with a common interest or aim (Garner, 2009). Equally, the term “sentiments” means thought, opinion or idea based on a feeling about a situation, which may be influenced by emotion rather than fact or reason (Cambridge English Dictionary). Indeed, a combination of these terms, public and sentiment, connotes a situation whereby a particular group of persons with or without common interest or aim hold thoughts, opinions or ideas about a situation in their community, state or nation, based on their emotions rather than facts or reasons. Therefore, public sentiments held by a group of persons with common interest are driven by pressure groups but the ones without common interest are driven by a hired crowd or group of financially induced persons. In Nigeria, the majority of public sentiments are channelled through financially induced crowd or people without a common interest, for the purpose of carrying out protests or demands for or against actions or inactions of government for the benefit of the Nigerian elite whose selfish interest is always at stake. Often time, such hired group knows little or nothing about the character of the person(s) they are hired to agitate for.

Usually, these people are gullible or docile persons. They are usually paid and sometimes get themselves brutalised in the process of sharing the peanuts usually given to them for their ignoble role. Their ring leaders are often time promised additionally, low hanging fruits, once the elite and/or persons (hirers) achieve their desired goals. Regrettably, such political elite and/or persons characteristically, no sooner than later exhibit the Nigerian attitude of “used and dumped”, whereby such ring leaders are treated with disdain and placed at arm’s length. The result of such treatment has, undoubtedly, contributed to numerous social vices like kidnappings of children and relatives of such elite and/or public officials where the elite themselves are not victims. There are numerous unreported or under reported cases particularly at local and state government levels whereby leaders of such hired groups have been besieg-ing the offices and residences of public officers and elite at regular or monthly intervals, to demand for and collect their agreed “ransoms”. In some instances, where the federation allocations collected are barely enough to pay workers salaries talkless of meeting such unlawful and illegal payout, leaders of such groups usually threaten the peace and order in the society.

Curiously, to pacify leaders of such groups, it has become like a problem shooter and modus operandi to further award them contracts euphemistically called “dividend of democracy” or “low hanging fruits”. Such contracts include perimeter fencing, construction or renovation of school and hospital, supply of materials, facilities and equipment for road construction, hospitals and schools. While such contracts are meant to reward and empower such beneficiaries whose capabilities to execute such contracts are questionable, obviously, the result usually is that in most cases, the contracts are either not perfectly done or carried out completely or at all. Regrettably, sanctions are not usually meted out to such defaulters due to the fact that illegality begets illegality. At the moment, Nigeria has well over N5 trillion abandoned projects across the country (Economic Confidential, 2017). The sum total effects of such untoward, unethical and an unscrupulous attitude; inherent in such scenario, further impacts negatively on Nigeria’s recessed economy and nascent democratic culture in Nigeria.
Political Sentiments

According to Webster Dictionary, the term “political” is something relating to, involving or involved in politics and especially party politics. The word “sentiment” as already defined in this write-up has to do with thought, opinion or idea based on a feeling about a situation which may be influenced by emotion rather than fact or reason. In this connection, fusion of the two words, that is, political and sentiment, produces a result of emotional thought, opinion or idea of members of a political party on public issues that they might have perceived as affecting or likely to affect the collective interest of the political party and by extension that of their members. This tendency may be displayed either by the ruling or opposition party. Such tendency manifests in Nigeria in situations where non-card-carrying members and/or civil society organisations (CSOs) are procured, for a token, to carry out rallies in major cities and at important public places in support or against certain government’s actions or policy, which might have been adjudged to be or likely to be inimical to the interest of their hirer(s). Beyond this class of persons or groups, there are reported cases of alleged use or instigation of state security agencies to stifle even members of the ruling party and indeed the opposition political parties (Usman, 2017 and thenigerialawyer.com, 2017). Evidently, both the ruling and the major opposition political parties – APC and the Peoples Democratic Party (PDP) are crying foul of courts’ decisions and activities of the EFCC as either being favourable or unfavourable to them (thenigerianlawyers.com, 2017).

There is also a rebuttable presumption that whenever any PDP member whether or not accused of corruption, defects to the ruling APC led government, such a member is granted automatic freedom from criminal prosecution or benefits of constructive nolle prosequi. This belied disposition of the ruling party, according to observers, towards members of opposition parties has gingered mass defection to the APC in many States previously held by the present major opposition parties in Nigeria. Beyond this, the political relationship between the executive and the leadership of the legislative arms at national level has remained that of cat and dog as evident in the existing carrot and stick relationship between them. This frosty relationship arises since the emergent of the leaderships in the two chambers of NASS, which is believed to be different from the pre-ordained leaderships for both chambers by the APC – as a party. More worrisome has been the fact that the PDP surprisingly clinched the position of Deputy Senate President in a Senate dominated by the members of APC. Therefore, the expected political sentiment would have been the winner takes it all while the loser goes home as an orphan and total loser. This, however, has happened inspite of the message of change mantra, which the Nigerian public is made to believe and which should admit positive change from old methods of political considerations in appointive and elective offices at all levels of government. The sustained pressure and antics to change the leadership in the Senate to meet the pre-ordained leadership template in the two chambers of the NASS, has continued to create endless crisis of confidence in the APC and a rift between the executive and legislative arms, to the extent that speculations are rift that the current prosecution of the Senate President, Bukola Saraki, at the Code of Conduct Tribunal for false declaration of assets, when he served as Executive Governor of Kwara State between 2003 – 2011 and the allegation of forging of Senate rules, before a Federal High Court, preferred against the principal officers of the Senate are not unconnected with the displeasure of the national leadership of the APC and the executive arm against the emergent of the present leadership of the Senate in particular. This has led to the remarks made by Senator Shehu Sani of the APC that when the executive arm wants to treat allegations involving members of the executive, it
Civic Education
Civic education has several meanings but such several meanings are rooted in democratic system of governance and citizenship. However, the word civic education is an amalgam of two words, that is, “civic” and “education”. According to Garner (2009), the term civic relates to citizenship or city. Also, Hornby (2000) defines the same word as something “officially connected with a town or city or connected with the people who live in a town or city”. Similarly, Hornby also defines education as “a process of teaching, training and learning especially in schools or colleges to improve knowledge and develop skills”. The merging of these words or terms connotes that civic education is the teaching, training and learning in schools or colleges of people in a town or city to aid and enhance their capacity to improve knowledge and develop skills. Therefore, the development and improvement of citizens’ knowledge and their skills in a country can ultimately equip them to become good citizens, socially and economically self-reliance and obedient to constituted authorities.

Unfortunately, the teaching of civic education in Nigeria in spite of its importance and role in nation building has not only been relegated in the scheme of things but it has become a victim of religious and ethnic politics in Nigeria. For instance, recently, the revised 2008 9-year Universal Basic Education curriculum prepared by the Nigerian Educational Research Council (NERC) has merged civic education, among formerly independent subjects such as Christian Religious Studies, Islamic Studies, Social Studies and the newly introduced subject – National Security Education as one compulsory subject in the primary and secondary schools curriculum. This has the potential effect of submerging civic education as a subset or less important subject contrary to the quest for good citizenship and study of democratic ideals. Civic education seeks to promote the understanding of the ideals and principles of democracy and reasoned commitment to the values and principles of democratic governance (mdk12.org., 2016). Democracy can only be understood in a society where law rules. Such laws are legislation that epitomise the necessary nexus between the will of the sovereign and the society in which human wants are met. For the values and ideals of democracy to exist and endure sustainably, the citizens both young and old have to be continuously taught realistic civic education that addresses the central truths about political life from primary to tertiary education levels. According to the American Political Science Association (APSA), the central truth about political life in a democratic setting is in the realistic knowledge of civic education by the public and indeed, the electorate. The knowledge of civic education could enhance their capacity and ability to counter the belief (in developing country such as Nigeria) that in politics one either wins or loses. And to win means deploying every negative arsenal in electoral contestation to win and getting everything at once now. Such undemocratic belief has given birth to the idea that “winner takes it all”, which has no place in a true democratic society. This is so because such notion can make the losers not only opt out of the democracy game but it can also make the losers constitute a clog in the wheel of democratic governance.

In Nigeria, for 18 years of democracy from 1999, the public and the electorate do not seem to understand the responsibilities of the three arms of government hence the constant mounting of pressure on these arms of government each, to act outside its constitutional functions. This has not only created constitutional crisis in the system but it has also pitched the citizens and
indeed the public against the government with attendant distrusts and lose of confidence in
the system and Nigerian nationhood (thenigerialawyer.com, 2017). Nigerian education
curriculum at primary education before now used to emphasise the teaching of civic
education as a major subject area in order to catch the children young and get them to imbibe
citizen participation, good citizenship, nation building and nationalistic spirit. Such children,
as they grow up, would hardly depart from such earlier civic instructions. Indeed, the
progressive dearth of emphasis on civic education in schools at all levels in Nigeria presently
has created serious disconnect and knowledge gap whereby the youths these days are tools in
the hands of the political elite or class. Parents also aid their children to cheat in public
examinations. Political leaders steal money from public covers to hedge more than three
generations of their kindred against poverty. Also, laws are made and interpreted to promote
individual interest as opposed to public and social interests. Therefore, there is a need to
recognise the missing link between the knowledge derivable from the study and promotion of
civic education and the quest for the resolution of the present misconception and wrong
perception about the Nigerian justice system and the reshaping of public and political
sentiments in Nigeria, positively.

Conclusion
Often time most Nigerians react adversely to issues of law and judiciary, the way to do
because they do not understand and indeed, appreciate the legal jurisprudence within the
Nigerian legal system. Nigeria operates positive law jurisprudence with a fusion of natural
law to the extent of codified ones only. Excepting in the exercise of discretionary powers,
which the apex court, that is, the Supreme Court usually adopts in its adjudication and
interpretational powers based on public policy, public interest and to do substantial justice, all
decisions of courts are and must be subject to the spirit and letters of a written law without
any recourse to sentiment. A fortiori, Nigerian law is law as it is and not law as it ought to be.
Nonetheless, law derives its obedient generally from its ability, capacity and purpose to
convert the will of the sovereign into the end of the society, that is, law must have and enjoy
a nexus with the society in order to promote and enhance justice and good government for a
greater number of citizens. The citizens or people of a country cannot be presumed to know
and understand their legal system and its dynamism and respond to same positively in their
assessments, commendations and condemnations, unless they are continuously
educated and informed about such legal system. By so doing, the necessary organic solidarity of the
citizens in a country like Nigeria vis-à-vis the functions of the judiciary can be better
understood and appreciated. This paper suggests that:
- National Orientation Agency and its State’s counterparts should be more pragmatic in
  the discharge of their statutory obligations and they should be well funded.
- Citizens should be regularly informed/briefed about the activities of Government.
- Policies and plans of government should not be top-down but bottom-up to ensure
  smooth compliance and implementation.
- Citizens should cultivate the habit of trusting their leaders and vice versa.
- Education system should emphasise and promote the study of civic education from
  primary to tertiary education, in order to create, enhance and promote good
citizenship in Nigerians.
- Conditions in public offices that could manifestly serve as recipe for corruption
  should be nipped in the bud through legislative reforms.
References


Holy Bible, Romans 13: 1.


